

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA,

v.

INGRID D. LEVY,

Defendant.

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Case No. 1:07-cr-00265-JCC

The Hon. James C. Cacheris

EMERGENCY MOTION TO POSTPONE SELF-SURRENDER DATE

Ingrid D. Levy, through undersigned counsel, respectfully requests that the Court postpone her self-surrender for thirty (30) days, until September 22, 2008. The reasons supporting this request are set forth below.

I. BACKGROUND

On February 25, 2008, Ingrid Levy was convicted after trial of three counts of Mail Fraud in violation of 18 U.S.C. § 1341 and four counts of Wire Fraud in violation of 18 U.S.C. § 1343. On June 12, 2008, this Court sentenced Ms. Levy to the following: 46 months in prison for counts one through seven, to be served concurrently, three years supervised release for counts one through seven, to be served concurrently, payment of a \$700 special assessment (\$100 per count), and payment of \$168,300.07 in restitution. On June 19, 2008, Ms. Levy filed a timely notice of appeal with this Court. Subsequent to Ms. Levy's timely notice of appeal, she also filed with this Court a Motion for Reconsideration for Bond Pending Appeal and Motion to Postpone Self-Surrender. This Court denied both of these motions, citing premature filing as its reason for denial of the Motion to Postpone Self-Surrender. Ms. Levy filed a Motion for Bond Pending Appeal with the Fourth Circuit on August 1, 2008. On August 5, 2008, Ms. Levy

received notice from the Bureau of Prisons to self-surrender no later than noon on August 22, 2008.

II. ARGUMENT

The reasons for Ms. Levy's request are two-fold. First, Ms. Levy is seeking relief in the form of bond pending appeal with the Fourth Circuit. That motion is pending. Second, as the Court knows, Ms. Levy is the mother of three young children. The two older children, who are old enough to attend school, are not attending school for the summer, and it is critical for Ms. Levy to be home to care for all her children during the summer months. For this reason, even if her Motion for Bond Pending Appeal is denied, Mr. Levy would ask that she be allowed to self-surrender thirty (30) days later than the August 22, 2008, self-surrender date.

A. Postponing Ms. Levy's self-surrender date for thirty (30) days will allow her children to return to school and reduce the negative impact of her removal.

As this Court is aware, Ms. Levy is the mother of three young children—the youngest only two years old and the eldest suffering from a disability known as Auditory Processing Disorder (“APD”). Clearly, the removal of any mother from the lives of her children would create a tremendous hardship for any family, however, in Ms. Levy's case, the removal from the home will create significant disturbances in her children's lives and personal development. Not only will unnecessary and premature alterations in the home life and social structure of Ms. Levy's children potentially cause severe behavioral and social problems in the eldest child, but it will also create behavioral and health issues for the two younger children. The impact of Ms. Levy's incarceration upon her family will be mitigated at least in the short-term if she is allowed to remain at home with the children for the summer while they are not attending school.

As the potential for prejudice and irreparable injury to Ms. Levy and her children is severe and significantly outweighs any negligible prejudice to the government and the public,

Ms. Levy's request for a brief postponement of her self-surrender date is reasonable and warranted under the circumstances.

B. Postponing Ms. Levy's self-surrender date will allow the Fourth Circuit to render a decision on her Motion for Bond Pending Appeal and avoid irreparable harm to Ms. Levy.

Ms. Levy's Motion for Bond Pending Appeal is currently pending with the Fourth Circuit. As such, Ms. Levy requests that this Court postpone her self-surrender date to allow the Fourth Circuit to render a decision on her Motion for Bond Pending Appeal.

Ms. Levy will be severely prejudiced if this Court does not allow a brief postponement of her self-surrender date pending a decision of her Motion for Bond Pending Appeal. If the Fourth Circuit grants Ms. Levy's Motion for Bond Pending Appeal without having granted this request to postpone her self-surrender date, she will be *irreparably injured* by having to self-surrender to prison and begin her incarceration when the Fourth Circuit later decides that she merits bond pending appeal.

On the other hand, if this Court grants Ms. Levy's request to postpone her self-surrender date and the Fourth Circuit later denies her request for bond pending appeal, neither the public, nor the government will be prejudiced by a short postponement of Ms. Levy's execution of this Court's sentence. Furthermore, Ms. Levy *does not* pose a risk of flight or a danger to the community, thus, the granting of this motion will not affect the safety of the community in any way.

WHEREFORE, for the forgoing reasons, Ms. Levy respectfully requests that this Court postpone her current self-surrender date of August 22, 2008 for thirty (30) days, to September 22, 2008, pending her children's return to school and a decision by the Fourth Circuit on her Motion for Bond Pending Appeal.

Respectfully Submitted,

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Dated: August 11, 2008

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of August, 2008, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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